UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

CENTER FOR INDIVIDUAL FREEDOM, INC.,	
Plaintiff,)
v. NATALIE E. TENNANT, et al., Defendants;	Civil Action No. 1:08-cv-00190
WEST VIRGINIANS FOR LIFE, INC., et al., Plaintiffs,)))))
v.) Civil Action No. 1:08-cv-01133
NATALIE E. TENNANT, et al., Defendants.)))

STIPULATION TO DISMISS UNRESOLVED CLAIM AND SET DATE FOR FEE APPLICATIONS

In the interests of judicial economy, the parties hereby stipulate to the dismissal <u>without</u> <u>prejudice</u> of the claim of vagueness in the targeting provision of W. Va. Code § 3-8-1a(24), as to which summary judgment is denied at page 57 of the Court's July 18, 2011, Memorandum Opinion and Summary Judgment Order. (Dkt. No. 233.) That is the only claim not resolved by the July 18, 2011, ruling. The intended effect of this dismissal is to avoid trial on a single issue so as to allow the Court to enter a final and appealable "judgment" pursuant to Rule 54 of the

Federal Rules of Civil Procedure. The dismissal determines or implies nothing with respect to the merit of the vagueness claim.

Because of vacation schedules during August, the parties stipulate that applications for fees or expenses may be submitted on or before September 15, 2011.

The parties respectfully request the Court to approve this Stipulation by a Final Judgment Order dismissing the remaining claim without prejudice and allowing all parties to and including September 15, 2011 to submit any motion for fees or expenses.

SO AGREED, this 29th day of July, 2011:

Respectfully submitted,

/s/ Silas B. Taylor

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IT IS SO ORDERED.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: August 3, 2011

THOMAS E. JOHNSTON

UNITED STATES DISTRICT JUDGE